IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 35929 of 2007(B)

IA 1895/07 in OS.260/2007 of SUB COURT, THRISSUR
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PETITIONER:

K.V.HAMZA, S/O.PULIKKAL M.A.KUTTY @
KUNHIMON, VADAKKEKKAD AMSOM DESOM, CHAVAKKAD TALUK

BY ADV. SRI.K.RAMACHANDRAN
SMT.R.MEERA

RESPONDENT:

PUSHPASREE, TEACHER, D/O.VAKKAYIL
KALYANIKKUTTY AMMA, PUTHAMBALLY DESOM,
IRINGAPRAM AMSOM, CHAVAKKAD TALUK 680 506.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.35929 of 2007

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Dated this the 5th day of December, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Subordinate Judge, Thrissur in I.A.No.1795 of 2007 in O.S.No.260 of 2007. By the said order, the court directed the defendant therein to furnish security for Rs. 21,40,000/- and in the meanwhile ordered conditional attachment of item 2 of the plaint schedule. The court had just expressed its views holding that item 2 will be sufficient to satisfy the suit amount. It is not seen what is the basis on which the court has entered into such finding. In the absence of a speaking order, this court is not able to understand the reasons for holding so. Therefore, necessarily the order passed has to be interfered with.

2. Therefore, I set aside the order of the learned Subordinate Judge and direct her to consider the matter afresh and if she is satisfied with the attachment of item 2 there must be cogent reason with regard to the sufficiency of the security.

In the event of non-satisfaction, the court can take further safeguards with respect to the other properties and pass appropriate orders. Since I am disposing of the matter at the admission itself, the court below shall give notice to the defendant, hear both sides and dispose it of in accordance with law.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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